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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
ADAMS, CHARLES D	

ART UNIT	PAPER NUMBER
2164	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/815,112	PACZKOWSKI ET AL.	
	Examiner	Art Unit	
	Charles D. Adams	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7-30-04, 11-04-04, and 5-10-05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "best" in claims 4 and 16 is a relative term which renders the claim indefinite. The term "best" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. As such, the claim is indefinite.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-9, 11, 13, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Ryan et al. (US Pre-Grant Publication 2003/0088554).

As to claim 1, Ryan et al. teaches:

Receiving client data from a plurality of client computers, the client data being indicative of consumer preferred links for keywords employed to perform searches across different search engines on the Internet (see paragraphs [0043], [0068], and [0076]-[0077]);

Receiving a keyword from a search engine (see paragraphs [0043]-[0044]);

Providing the search engine a plurality of links pointing to at least one document on the Internet, at least one link in the plurality of links determined to be relevant to the keyword based on client data (see paragraphs [0043] and [0076]-[0077]).

As to claim 2, Ryan et al. teaches further comprising creating a search model using the client data, the search model being configured to provide a score indicative of a relevance of a link to the keyword (see paragraphs [0076]-[0077]).

As to claim 3, Ryan et al. teaches wherein the client data are stored in a database in a message server computer in communication with a message delivery program generating client data (see paragraphs [0040]-[0041] and [0076]-[0077]. Some output data sets can be 'permanent', meaning that they are recorded in a database on the server).

As to claim 4, Ryan et al. teaches informing the search engine of a best layout in presenting the plurality of links (see paragraph [0043]. Links are output based on the user data. This could be a 'best' layout in presenting output to a user, as no other layouts are indicated).

As to claim 5, Ryan et al. teaches wherein links associated with the keyword are assigned corresponding scores using a search model (see paragraph [0076]-[0077]).

As to claim 6, Ryan et al. teaches further comprising:

Including the plurality of links in a search result provided to a first client computer of a consumer (see paragraphs [0076]-[0077]).

As to claim 7, Ryan et al. teaches wherein a link in the plurality of links point to a web page (see paragraphs [0043] and [0076]-[0077]).

As to claim 8, Ryan et al. teaches wherein the first client computer does not have a client program in communication with a server computer providing the plurality of links to the search engine (see paragraphs [0043] and [0065]-[0068] and Figure 1. The algorithms of the system provide the plurality of links to the search engine to present to the user. A client program on a first client computer does not provide the plurality of links to the search engine).

As to claim 9, Ryan et al. teaches wherein the client data comprise consumer navigation history (see paragraph [0081]).

As to claim 11, Ryan et al. teaches wherein the at least one link is determined to be relevant to the keyword based on a number of times consumers clicked on the at least one link (see paragraphs [0076]-[0077] and [0108]-[0112]).

As to claim 13, Ryan et al. teaches wherein the at least one link is determined to be relevant to the keyword based on an amount of time consumers spent viewing a web page pointed to by the at least one link (see paragraphs [0076]-[0077]).

As to claim 19, Ryan et al. as modified teaches:

Receiving a search request for a keyword from a client computer (see paragraphs [0043] and [0076]-[0077]);

Providing a search result responsive to the search request, the search result including at least one link that is determined to be relevant to the keyword based on consumer actions with respect to the link as displayed on different search results from different search engine (see paragraphs [0043], [0064], and [0076]-[0077]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 10 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al. (US Pre-Grant Publication 2003/0088554) in view of Gerace (US Patent 5,848,396).

As to claim 10, Ryan et al. teaches the method of claim 1.

Ryan et al. does not teach wherein the client data comprise consumer purchase behavior.

Gerace teaches wherein the client data comprise consumer purchase behavior (see column 2, lines 24-29 and column 2, lines 35-52).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was claimed to have modified Ryan et al. by the teaching of Gerace, since Gerace teaches that "the data assembly is able to transmit advertisements for display to users based on psychographic and demographic profiles of the user to provide targets marketing" (see 2:31-34).

As to claim 12, Ryan et al. teaches the method of claim 1.

Ryan et al. does not teach wherein the at least one link is determined to be relevant to the keyword based on a number of times consumers made a purchase by following the at least one link.

Gerace teaches wherein the at least one link is determined to be relevant to the keyword based on a number of times consumers made a purchase by following the at least one link (see 2:24-29 and 2:35-52).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was claimed to have modified Ryan et al. by the teaching of Gerace, since Gerace teaches that "the data assembly is able to transmit advertisements for display to users based on psychographic and demographic profiles of the user to provide targets marketing " (see 2:31-34).

7. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al. (US Pre-Grant Publication 2003/0088554) in view of Anderson et al. (US Pre-Grant Publication 2004/0167928).

As to claim 14, Ryan et al. teaches a system for providing search results (see paragraph [0043]), the system comprising:

A plurality of client computers (see paragraph [0040]),

Ryan et al. does not teach each of the client computers including a message delivery program that is configured to record client data indicative of consumer preferred links for keywords employed to perform searches across different search engines.

Anderson et al. teaches each of the client computers including a message delivery program that is configured to record client data indicative of consumer preferred links for keywords employed to perform searches across different search engines (see paragraphs [0051]-[0052]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Ryan et al. by the teaching of Anderson et al., as Anderson et al. teaches "As can be appreciated by the foregoing description, the present invention expands opportunities for advertisers to serve their ads to end users perceiving content to which the ads are relevant. One or more client device applications can be used to (i) request ads relevant to the content of a requested document and/or (ii) render one or more content-relevant ads in association with the requested document" (paragraph [0070]).

Ryan et al. as modified teaches a message server computer configured to receive client data from the message delivery program in each of the client computers, the message server computer storing a ranking of links associated with particular keywords, the ranking being based on client data (see Ryan et al., paragraphs [0040]-[0041] and [0076]-[0077], and Anderson et al. paragraph [0054]).

As to claim 15, Ryan et al. as modified teaches further comprising:

A search engine configured to receive a search request for a keyword from a first client computer, the search engine being configured to provide the keyword to the message server computer and to receive a set of links from the message server

computer, the links in the set of links determined to be relevant to the keyword based on the client data (see Ryan et al. paragraphs [0043] and [0076]-[0077]).

As to claim 16, Ryan et al. as modified teaches wherein the search engine is configured to receive information on a best layout to be used in presenting the set of links from the message server computer (see Ryan et al. paragraph [0043]. Links are output based on the user data, which could be a 'best' layout, and Anderson et al., paragraphs [0055]-[0056]).

As to claim 17, Ryan et al. as modified teaches wherein the links in the set of links point to web pages on the Internet (see Ryan et al. paragraphs [0043] and [0076]-[0077]).

As to claim 18, Ryan et al. as modified teaches further comprising:

A search model created using the client data and configured to provide a score for a link, the score being indicative of a relevance of the link to a keyword (see Ryan et al., paragraphs [0076]-[0077]).

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al. (US Pre-Grant Publication 2003/0088554) in view of Bottigelli et al. (EP 1 217 560 A1).

As to claim 20, Ryan et al. teaches wherein the link is determined to be relevant based on client data received from a plurality of client programs provided to consumers (see paragraphs [0043] and [0076]. It receives information from internet browsers, which are client programs provided to users)

Ryan et al. does not teach in exchange for a product provided free of charge or at a reduced cost.

Bottigelli et al. teaches in exchange for a product provided free of charge or at a reduced cost (see paragraphs [0050]-[0051]. A free Internet is provided in exchange for downloading and using the client program).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Ryan et al. by the teaching of Bottigelli et al., since Bottigelli et al. teaches that "a further object of the invention, strictly deriving from the previous one, is to simplify the targeting of advertisement contents, by enabling the creation of a reliable profile on the basis of interactions made on advertisement contents only" (see paragraph [0023]).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles D. Adams whose telephone number is (571) 272-3938. The examiner can normally be reached on 8:30 AM - 5:00 PM, M - F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SAM RIMELL
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